IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND SIX

PRESENT
THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.15403 of 2006

Between:

Munigadapa Kanakaiah.

..... PETITIONER

AND

1.The Government of A.P., rep. by its Secretary, Panchayatraj Department, Secretariat, Hyderabad, and 3 others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.15403 of 2006

ORDER:

Heard learned Counsel for the parties.

This Writ Petition is filed seeking a Writ of mandamus declaring the action of the 4th respondent in Proceedings No.F/1354/2006/13, dated 22-07-2006, in rejecting the nomination of the petitioner for

10th ward of Challur Village, Rajapet Mandal, Nalgonda District, as arbitrary, illegal and violative of principles of natural justice and consequently set aside the same and permit the petitioner to contest in the election scheduled to be held on 02-08-2006 for Challur Village, Rajapet Mandal, Nalgonda District.

Petitioner filed nomination for the post of Ward member 10th ward, Challur Village, Rajapet Mandal, Nalgonda District. His nomination was rejected on the strength of a judgment of the Criminal Court in CC.No.587 of 2001 on the file of the Additional Judicial First Class Magistrate, Bhongir. The main grievance of the petitioner is that the said judgment was reversed in Crl.A.No.144 of 2003 by the IV Additional Sessions Judge, I Fast Track Court, Nalgonda, but, without considering the same, the order of rejection was passed by the fourth respondent.

It needless to say that when there is a judgment of the appellate Court setting aside the conviction and sentence imposed by the Court of first instance and nomination was rejected on the strength of the judgment of the Court of first instance, definitely, such rejection cannot be sustained.

Prima facie, the rejection appears to be

unsustainable inasmuch as reliance was placed on the judgment of the Court of first instance when the same had been reversed by the appellate Court.

In view of the facts and circumstances of the case, and inasmuch as the petitioner is having an efficacious alternative remedy by way of election petition, this Court, being a writ Court, is not inclined to interfere with the same at this stage. Liberty is given to the petitioner to approach the appropriate election Tribunal, if he is so advised.

With the above observation, the Writ Petition is disposed of. No order as to costs.

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31st July, 2006

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